

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1795 of 1999

in

SPECIAL CIVIL APPLICATION No 8262 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE D.P.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

VITTHALBHAI CHHAGANBHAI

Versus

CHIEF PROJECT MANAGER, NATIONAL BLDG CONSTRUCTION CORP LTD

Appearance:

MR RK MISHRA for Appellants

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE D.P.BUCH

Date of decision: 11/12/2000

The short contention raised before us in this Letters Patent Appeal directed against the order of the learned Single Judge on 14.10.1999 whereby, the writ petition at the instance of the appellants came to be summarily rejected, which was filed against the order of the Labour Court dated 12.3.1998, in a reference under Section 10(1)(c) of the Industrial Disputes Act, 1947, insofar as, the appellants No.2,3,4 and 5 are concerned, on the ground that the Reference was not tenable, in absence of authority of workmen who are appellants No.2 to 5. Such a dispute was raised on behalf of the respondent Management and it was accepted by the Labour Court. Rejection of the Reference, qua the appellants No.2 to 5, is thus technical without any authority given by the appellants to the Union, who had sponsored the cause of the workers and the Reference could not be decided on merits. Instead of correcting the mistake, the appellants went on pursuing further remedies, in course of which, they lost in writ petition and, therefore, they are before us in this Letters Patent Appeal under Clause 15 of the Letters Patent.

2. In absence of any adjudication on merits, it would be open for the appellants No.2 to 5, the workmen, to pursue regular redressal after correcting the mistake, if any, in giving authority, or if permissible, by themselves. There is no case requiring consideration and adjudication before us in this LPA, insofaras, appellants no.2 to 5 are concerned.

3. Insofar as, appellant No.1 is concerned, his claim came to be partly allowed. His dismissal from service is quashed and set aside. The Labour Court has directed the respondent Management to reinstate him with 50% backwages with costs. The contention that full backwages should have been awarded, is without substance. Again, in course of his evidence, it was admitted by him that he was doing miscellaneous labour work and he was earning. The discretion exercised in this behalf by the Labour Court in granting only 50% backwages, while passing the order for reinstatement and confirmed by the learned Single Judge, has remained unquestionable. There is no fit case for interference by this Court and the appeal is, therefore, required to be dismissed at the threshold.

4. This appeal, therefore, shall stand dismissed. However, as observed hereinbefore, the rejection of

Reference without adjudicating the claim on merits, would not be a ban or bar in pursuing appropriate, available, legal remedies personally or through the Union. This appeal is accordingly dismissed at the admission stage.

11.12.2000 [J N Bhatt, J.]

msp

[D P Buch, J.]